

(2021) 02 PAT CK 0318

Patna High Court

Case No: Criminal Miscellaneous No. 31852 Of 2020

Batoran Mahto @ Batoran Rai
And Ors

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: Feb. 26, 2021

Acts Referred:

- Bihar Prohibition And Excise Act, 2016 - Section 30(a)
- Code Of Criminal Procedure, 1973 - Section 438(2)

Hon'ble Judges: Ahsanuddin Amanullah, J

Bench: Single Bench

Advocate: Rina Sinha, Choubey Jawahar

Final Decision: Disposed Of

Judgement

1. Heard Ms. Rina Sinha, learned counsel for the petitioners and Mr. Choubey Jawahar, learned Additional Public Prosecutor (hereinafter referred to

as the "APP" for the State.

2. At the outset, learned counsel for the petitioners submitted that petitioner no. 1 having been arrested, she be permitted to withdraw the application.

3. Accordingly, the application on behalf of petitioner no. 1, namely Batoran Mahto @ Batoran Rai, stands disposed off as withdrawn and is restricted to petitioner no. 2 namely, Shiv Rai and petitioner no. 3, namely Bhagwan Mahto.

4. The petitioners apprehend arrest in connection with Jurawanpur PS Case No. 62 of 2018 dated 20.08.2018, instituted under Sections 30 (a) of the Bihar Prohibition and Excise Act, 2016.

5. The allegation against the petitioners is that when police on information that wine was being illegally manufactured and sold, reached the spot, 10-15

miscreants tried to flee away by boat but on chase 3-4 miscreants jumped in the Ganges river and the local men who were rearing cattle disclosed the name of 11 persons, including the petitioners.

6. Learned counsel for the petitioners submitted that they have been falsely implicated in the case and nothing has been recovered from their house. It

was further submitted that even the name of the persons who had identified the petitioners has not been mentioned in the FIR and further that co-

accused Bindeshwari Mahto and Gorakh Mahto have been granted anticipatory bail by a co-ordinate Bench by order dated 25.01.2019 passed in Cr.

Misc. No. 3797 of 2019. It was further contended that the petitioners have no criminal antecedent.

7. Learned APP submitted that the petitioners have been named in the FIR and most importantly, local persons have identified the culprits, including the petitioners.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender

before the Court below within six weeks from today, petitioner no. 2 namely, Shiv Rai and petitioner no. 3 namely, Bhagwan Mahto, be released on

bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned

Additional Session Judge-II-cum Excise Court, Vaishali at Hajipur in Jurawanpur PS Case No. 62 of 2018, subject of the conditions laid down in

Section 438 (2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioners no. 2 and 3,

(ii) that the petitioners no. 2 and 3 and their bailors shall execute bond with regard to good behaviour of the petitioners no. 2 and 3, and (iii) that the

petitioners no. 2 and 3 shall also give an undertaking to the Court that they shall not indulge in any illegal/criminal activity, act in violation of any

law/statutory provisions, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the

undertaking shall lead to cancellation of their bail bonds. The petitioners no. 2 and 3 shall cooperate in the case and be present before the Court on

each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of their bail bonds.

9. The application stands disposed off in the aforementioned terms.